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9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 UNITED STATES OF AMERICA,) CASE NO. CR-17-0066-001 JST

13 Plaintiff,)
vs.)
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Defendant.)

DATE: August 16, 2019
TIME: 9:30 am
JUDGE: Honorable Jon S. Tigar
COURT: 2, 4th Floor

Defendant Lisa Rossi submits this memorandum regarding sentencing, following the Court's finding of July 5, 2019 that she is in violation of her probation. At the time it made that finding the Court indicated that it was considering imposing a sentence of 30 days incarceration.

Defendant respectfully requests that the Court not sentence her to a term of incarceration, both because incarceration is inappropriate and unnecessary under the facts herein and because incarceration will be counter-productive to the goal of obtaining full restitution for all victims as quickly as possible.

Defendant Rossi's Memorandum
Re: Sentencing (Case No. CR-17-0066-001 JST)

1 Defendant is aware that this Court's determination that she violated her probation was
2 based in significant part on the Court's conclusion that her claim of inability to pay was not
3 credible and hence that her failure to pay restitution was willful. The Court did not credit
4 defendant's assertion that she did not have sufficient sources of income to make restitution and
5 that she did not have access to funds held in trust accounts that were under the control of other
6 members of her family. The Court apparently agreed with the government's contention that she
7 had access to funds that could have been, but were not used for restitution. Yet in the more than
8 seven months since the government initiated this proceeding, the government has failed to prove
9 the existence of available assets or defendant's access to the trust funds. Indeed, in its most
10 recent filing of June 28, 2019 the government conceded that "a preliminary review of the Trust
11 Agreement indicates that Defendant may not be entitled to compel a distribution at this time."
12 (United States Memorandum, Dkt. 51, p.4). And the suggestion that monetary transactions the
13 government identified on June 28 demonstrated that defendant had undeclared income proved
14 unfounded.

15 Although Ms. Rossi does not have the present ability to pay restitution, she has been
16 working tirelessly for more than a year to obtain the funds necessary to make full restitution.
17 While the progress towards this goal has regrettably been slow, it has been steady.

18 As the Court will recall, in May 2018 Ms. Rossi was on the verge of obtaining a loan that
19 would have funded full restitution, but the property which she had offered as security for the loan
20 was seized by Alameda County to cover tax liens, and sold at well below market value. Because
21 the sales were done without adequate notice, Ms. Rossi has been attempting since September
22 2018 to rescind the sales so that she could restore the loan agreement that she had. We
23 previously reported to the Court that owners representing 15 of the 18 properties that were seized

**Defendant Rossi's Memorandum
Re: Sentencing (Case No. CR-17-0066-001 JST)**

1 and sold have expressly agreed to the rescission of the sales, and the owners of two additional
2 properties have indicated their lack of opposition to rescission.

3 Through the efforts of Ms. Rossi and her civil counsel, the prospects for rescission have
4 increased significantly. Representatives of the regional Environmental Protection Agency have
5 informed Alameda County Counsel that they support an early resolution and agree that rescission
6 is the best basis for that resolution. County Counsel has also indicated her support for putting the
7 issue of rescission on the Alameda County Board of Supervisors' calendar as soon as possible
8 following the August recess, hopefully in September, which would mean that the matter of
9 rescission could be resolved by October or November of this year. Henry "Hank" Levy, the
10 County Tax Assessor has also indicated that his office would support rescission if the availability
11 of loans sufficient to cover existing obligations, specifically including the County's tax liens, is
12 confirmed. Ms. Rossi and her counsel have received that confirmation and are in the process of
13 providing that confirmation to the Tax Assessor.

14 Based on all of these developments, Ms. Rossi's civil counsel believes that the rescission
15 issue can be favorably resolved and appropriate paperwork completed as early as October or
16 November, and the money released for full payment of restitution.

17 Clearly, Ms. Rossi has been working diligently to meet the goal of making full restitution,
18 a goal to which she is fully committed. Her incarceration at this point is not only unnecessary
19 and inappropriate, but would in fact interfere with the successful completion of her efforts. She
20 is the principal facilitator of the efforts, agreements and ultimately the transactions that will be
21 required, and is the link connecting all of the individuals and entities whose participation in the
22 process is necessary. Her incarceration at this point would bring those efforts to a standstill, and
23 at least delay, if not impede, the completion of restitution.

1 Accordingly, Ms. Rossi respectfully requests that a period of incarceration not be
2 imposed, but that her probation be extended and modified by the addition of conditions that will
3 permit and monitor her continued efforts to fulfill her restitution obligation.

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5 Dated: August 9, 2019

Respectfully submitted,

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LAW OFFICES OF DORON WEINBERG
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/s/ Doron Weinberg
DORON WEINBERG
Attorney for Defendant
LISA ROSSI